

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436

In the Matter of

CERTAIN SEMICONDUCTOR CHIPS
WITH MINIMIZED CHIP PACKAGE SIZE
AND PRODUCTS CONTAINING SAME

Inv. No. 337-TA-432

**NOTICE OF COMMISSION DETERMINATION TO TERMINATE INVESTIGATION
ON THE BASIS OF A SETTLEMENT AGREEMENT**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to terminate the above-captioned investigation based on a settlement agreement between the parties.

FOR FURTHER INFORMATION CONTACT: Michael Diehl, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-205-3095. Copies of all nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street S.W., Washington, D.C. 20436, telephone 202-205-2000.

General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at <http://dockets.usitc.gov/eol/public>.

SUPPLEMENTARY INFORMATION: On May 3, 2000, the Commission instituted this investigation of allegations of unfair acts in violation of section 337 of the Tariff Act of 1930 in the importation and sale of certain semiconductor chips with minimized chip package size and products containing same. 65 *Fed. Reg.* 25758 (May 3, 2000). The complaint alleged that three firms had infringed at least claims 6 and 22 of U.S. Letters Patent 5,679,977 (the '977 patent) and claims 1, 3, and 11 of U.S. Letters Patent 5,852,326 (the '326 patent) held by complainant Tessera, Inc. of San Jose, California. The notice of investigation named the following respondents: Texas Instruments of Dallas, Texas ("TI"); Sharp Corporation of Osaka, Japan; and Sharp Electronics Corporation of Mahwah, New Jersey (collectively, "Sharp"). On March 2, 2001, the Commission determined not to review an initial determination ("ID") of the presiding administrative law judge ("ALJ") granting Tessera's motion to withdraw the complaint allegations as to TI, and to terminate the investigation as to TI. An evidentiary hearing commenced April 5, 2001 and concluded on April 19, 2001. On June 1, 2001, the ALJ issued Order No. 33, denying Sharp's motion to reopen the hearing record.

On September 25, 2001, the presiding ALJ issued his final ID, finding that the Sharp respondents violated section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), by infringing the asserted claims of the '977 and '326 patents. On October 1, 2001, the ALJ issued a recommended determination in which he recommended

that, if the Commission finds a violation of section 337, it issue a limited exclusion order and a cease and desist order.

On October 9, 2001, Sharp appealed Order No. 33 and petitioned for review of the final ID. The Commission investigative attorney ("IA") did not file a petition for review. On October 16, 2001, complainant and the IA filed responses opposing Sharp's petition for review and its appeal of Order No. 33. On November 15, 2001, the Commission determined to affirm Order No. 33 and not to review the ALJ's final ID, and issued a notice to that effect. 66 *Fed. Reg.* 58524 (Nov. 21, 2001).

Having determined that a violation of section 337 has occurred in this investigation, the Commission sought comments on and considered the issues of the appropriate form of relief, whether the public interest precludes issuance of such relief, and the bond during the 60-day Presidential review period.

On January 25, 2002, Tessera and Sharp filed a joint motion with the Commission to extend the target date by 33 days, until February 27, 2002. The parties represented in the motion that they had settled their dispute, and would file with the Commission a joint motion to terminate the investigation on that basis.

On January 30, 2002, Tessera and Sharp filed a joint motion to terminate the investigation by settlement, and attached copies of a Settlement and Release Agreement and an Immunity Agreement, dated January 24, 2002, between Tessera and Sharp. On February 8, 2002, the IA filed a response to the motion, stating that the motion and agreements meet the procedural requirements relating to termination by settlement under Commission rules.

Having considered the joint motion and the IA's response, the Commission determined to terminate the investigation on the basis of the settlement agreement.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) and section 210.21(b) of the Commission's Rules of Practice and Procedure, (19 C.F.R. § 210.21(b)).

By order of the Commission.

Marilyn R. Abbott
Acting Secretary

Issued: February 27, 2002

